

REMARKS

Claims 12-18 are pending in the application. Claims 12-18 have been amended. Claim 19 has been cancelled.

Pursuant to the Examiner's restriction requirement, applicants hereby confirm the election of species II, claims 12-19, for prosecution in this application, made by Applicant's attorney, Michael A. Messina, in a telephone interview with the Examiner on November 29 2004.

In the Office Action, claim 12 was objected to for formal reasons. Claim 12 has been amended as suggested by the Examiner. Applicants believe that this amendment is fully responsive to the Examiner's concerns.

Claims 12, 13, 16 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,736,759 (Stubbs). Claims 12, 14, 15 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,478,736 (Mault) in view of Stubbs. Claim 19 was rejected under 35 U.S.C. §103(a) as being unpatentable over Mault and Stubbs in view of U.S. Patent 5,117,444 (Sutton). These rejections are respectfully traversed. Applicants respectfully request reconsideration and allowance of the claims in view of the following arguments.

Independent claim 12 has been amended to recite that the receiver unit includes a permanent magnet, and the living body data measurement unit includes a pedometer having a reed switch that turns on when the pedometer is placed on the receiver unit to send data to the receiver unit. These limitations were included in original dependent claim 19, which has consequently been cancelled. Claim 12 has further been amended to recite that the receiver unit has an infrared ray receiving section, and the pedometer sends data to the receiver unit by infrared ray. This recitation is supported, for example, at page 8, line 23 et seq. of the present application.

Neither Stubbs nor Mault nor Sutton teaches or suggests the claimed receiver unit of claim 12 having a permanent magnet and infrared ray receiving section, or the claimed pedometer having a reed switch that turns on when the pedometer is placed on the receiver unit and sends data to the receiver unit by infrared ray. It is contended at paragraph 11 of the Office Action that Sutton teaches a pedometer having a reed switch that sends data to a receiver having a permanent magnet upon placing the pedometer on the receiver. However, this is not a correct characterization of Sutton's disclosure.

Referring to Fig. 5 of Sutton, which is a block diagram of the circuitry within Sutton's pedometer 10, it is clear that Sutton's magnet 58 and reed switch 62 are both contained within pedometer 10. Therefore, Sutton does not show a pedometer having a reed switch and a receiver unit having a permanent magnet, as claimed. Sutton teaches a pedometer mechanism for counting the number of steps of a user, wherein contacts in reed switch 62 (inside the pedometer) open and close once for each stride as magnet 58 (also inside the pedometer) comes close to reed switch 62. In this way, each step is counted.

The embodiment of the present invention of independent claim 12 is described, for example, at page 8, line 23 et seq. of the present application. A permanent magnet is mounted on receiver unit 4, and a reed switch is mounted on pedometer 2, such that when pedometer 2 is placed on receiver unit 4, the reed switch is turned ON, whereby pedometer 2 sends measurement data (i.e., the number of steps it previously recorded) to the receiver unit 4. The infrared receiving section 22 of receiver unit 4 receives the measurement data from pedometer 2.

Thus, the claimed invention is directed to a mechanism for sending measurement data, such as a number of steps, from a pedometer to a receiver unit, as clearly defined in amended

independent claim 12. In contrast, Sutton relates only to a pedometer mechanism for counting steps.

None of the cited references teaches or suggests amended claim 12's receiver unit having a permanent magnet and infrared ray receiving section, or claim 12's pedometer having a reed switch that turns on when the pedometer is placed on the receiver unit and sends data to the receiver unit by infrared ray. Therefore, no combination of Stubbs, Mault and Sutton, however made, would yield the invention of claim 12, and it would not have been obvious to modify any Stubbs/Mault/Sutton combination to yield the invention of claim 12.

Consequently, claim 12 is patentable, as are claims 13-18, which depend from claim 12.

Reconsideration and withdrawal of the rejection of claims 12-18 under 35 U.S.C. §§102 and 103 are respectfully requested.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

Application No.: 10/785,028

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

A handwritten signature in black ink that reads "Michael A. Messina". The signature is written in a cursive, flowing style.

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